

REMARKS

Claims 60-78 are pending in the instant application. Entry of the attached Terminal Disclaimer and reconsideration of the pending claims are respectfully requested.

Double Patenting

The Examiner provisionally rejected claims 60-78 under the judicially created doctrine of obviousness-type double patenting over copending Application No. 10/136,321 (hereinafter "the '321 application"). The Applicants respectfully request that the enclosed timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) be entered to overcome the instant nonstatutory double patenting rejections as suggested in the Office Action mailed April 26, 2004.

The Applicants wish to note that the filing of the enclosed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) is not an admission to the propriety of the rejection. M.P.E.P. § 804.02 (8th Ed. February 2003); Quad Environmental Technologies Corp. v. Union Sanitary District, 20 USPQ2d 1392 (Fed. Cir. 1991). As stated by the Federal Circuit in the Quad Environmental Technologies decision, the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

CONCLUSION

In view of the foregoing remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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Cory G. Claassen
Reg. No. 50,296
Phone: (206) 292-8600